

1 Kathryn E. Cahoy (SBN 298777)  
2 **COVINGTON & BURLING LLP**  
3 3000 El Camino Real  
4 5 Palo Alto Square, 10th Floor  
5 Palo Alto, California 94306-2112  
6 Telephone: (650) 632-4700  
7 Facsimile: (650) 632-4800  
8 Email: kcahoy@cov.com

9 Ashley E. Bass (*pro hac vice*)  
10 Andrew Lazerow (*pro hac vice*)  
11 **COVINGTON & BURLING LLP**  
12 One CityCenter, 850 Tenth Street NW  
13 Washington, DC 20001-4956  
14 Telephone: (202) 662-6000  
15 Facsimile: (202) 6291  
16 Email: abass@cov.com  
17 Email: alazerow@cov.com

18 Kenneth A. Gallo (*pro hac vice*)  
19 Paul D. Brachman (*pro hac vice*)  
20 **PAUL, WEISS, RIFKIND, WHARTON & GARRISON LLP**  
21 2001 K Street, NW  
22 Washington, DC 20006-1047  
23 Telephone: (202) 223-7300  
24 Facsimile: (202) 204-7420  
25 Email: kgallo@paulweiss.com  
26 Email: pbrachman@paulweiss.com

27 *Attorneys for Defendant Intuitive Surgical, Inc.*

28 [Additional counsel listed on signature page]

**UNITED STATES DISTRICT COURT**  
**FOR THE NORTHERN DISTRICT OF CALIFORNIA**  
**SAN FRANCISCO DIVISION**

IN RE: DA VINCI SURGICAL  
ROBOT ANTITRUST LITIGATION

THIS DOCUMENT RELATES TO:  
ALL ACTIONS

Case No.: 3:21-cv- 03825-AMO-LB

**DECLARATION OF DR. JAIME WONG IN  
SUPPORT OF INTUITIVE SURGICAL, INC.'S  
OMNIBUS SEALING MOTION RE: CLASS  
CERTIFICATION BRIEFING**

Judge: The Honorable Araceli Martínez-Olguín

1 I, DR. JAIME WONG, declare as follows:

2 1. My name is Dr. Jaime Wong. I am a Senior Vice President and Senior Medical Officer at  
3 Intuitive Surgical, Inc. (“Intuitive”). I have reviewed the material that Intuitive seeks to maintain under  
4 seal, and that I understand was submitted in connection with the Parties’ Class Certification briefing in  
5 *In re: da Vinci Surgical Robot Antitrust Litigation* (“*In re da Vinci*”), N.D. Cal., No. 3:21-cv-03825-VC.  
6 I submit this declaration in support of sealing those materials. I am over eighteen years of age and am  
7 fully competent to make this declaration. The facts stated in this declaration are true and correct and are  
8 based upon my personal knowledge unless otherwise stated.

9 2. Intuitive designs and manufactures the da Vinci surgical systems, including da Vinci  
10 EndoWrist instruments. The design and manufacture of these systems were the culmination of many  
11 years of Intuitive’s research and development efforts. Intuitive invested thousands of hours devising test  
12 protocols, running tests, and otherwise developing both the EndoWrist instruments and the da Vinci  
13 Standard, S, Si, SP, X, and Xi da Vinci surgical systems.

14 3. Intuitive goes to great lengths to protect its engineering, research and development,  
15 testing, technical information, and financial strategy from competitors, potential competitors, and bad  
16 actors who could seek to misuse that information for improper purposes. Intuitive requires every  
17 employee to sign a confidentiality agreement. Proprietary information is disseminated internally only on  
18 a need-to-know basis. Employees are required to use passwords to access Intuitive files and other  
19 information security measures. Engineering areas are secured with key-cards, which are given only to  
20 authorized employees.

21 4. Certain sensitive and non-public competitive and financial information appears in the  
22 materials I have reviewed and that I understand have been filed in the documents reflected at the end of  
23 this paragraph. These documents contain confidential Intuitive financial information that Intuitive does  
24 not publicly report, as well as detailed information about Intuitive’s general pricing strategies and  
25 specific customer identities and discounts. Disclosure of this confidential information would result in  
26 unfair harm to Intuitive’s business and harm Intuitive’s competitive standing, as it would give other  
27 parties insight into Intuitive’s business and product performance and investments. Other parties could  
28

then use that competitive intelligence to further their own pricing or investment strategies without investing similar resources.

Document	Excerpt
Plaintiffs' Motion for Class Certification	Pg. 10, redacted price on line 26 Pg. 17-18, redacted pricing policy and pricing figures on lines 17:27-18:24
Dkt. Nos. 267 & 268.1	
Ex. 1 to the Declaration of Manuel J. Dominguez (Elhauge Class Report)	Page 105, Figure 9 – Pricing Figures Page 110, n. 497 – Contract Prices Page 111, paragraph 219 and Figure 10 – Pricing figures Page 112, paragraph 220, Figure 11, and n. 504 – Pricing and Revenue Figures, Contract Prices Page 113, paragraph 221 – Gross margin figures Page 114, Figure 12, and paragraph 222 – Margin figures Page 128, paragraph 252 and n.582 – Customer identities Page 148, ns. 677, 678, 680, 681, 683 – Customer identities Page 160, paragraph 317 – Pricing figures Page 171, paragraph 340 – Pricing figures Page 172, paragraph 341 – Pricing figures Pages 173–74, paragraph 346 – Margin figures Page 174, paragraph 347 and n.809 – Margin figures Page 182, paragraph 368 – Customer identity Page 186, n.863 – Customer identities Page 191, paragraph 393 – Pricing figures Page 192, paragraph 394 and n. 889 – Pricing figures
Dkt. Nos. 267.1 & 268.2	

1	Page 198, paragraph 405 – Pricing figures
2	Page 199, paragraph 406, n. 919, n. 920 – Pricing figures
3	Page 200, paragraph 408, 409, and n. 927 – Margin figures
4	Page 201, paragraph 411, and n. 935 – Pricing figures, Contract prices,
5	Customer identities
6	Page 212, n.974 – Customer identity
7	Page 256, paragraph 521 – Customer identity
8	Page 260, n.1182 – Customer identity
9	Page 261, n.1204 – Customer identity
10	Page 285, paragraph 587 – Pricing figures
11	Page 287, paragraph 589 – Margin figures
12	Page 294, n.1366 – Cost figures
13	Page 296, n.1376 – Customer identity
14	Page 300, n.1399 – Customer identity
15	Page 302, paragraph 621 – Margin figures
16	Page 303, paragraph 625 and 626 – Pricing figures
17	Page 304, paragraph 626 and n. 1413 – Pricing figures
18	Page 305, n. 1421– Pricing figures
19	Page 306, paragraph 632 – Pricing figures
20	Page 307, Table 3 – Pricing figures
21	Page 326, paragraph 669 – Pricing figures
22	Page 327, paragraph 670, n. 1535, and n. 1536 – Pricing figures
23	Page 328, paragraph 671 and n. 1545 – Margin figures
24	Page 329, paragraph 672 and n.1551 – Margin figures
25	
26	
27	
28	

Page 331, n.1559 – Customer identities

Page 351, n. 1649 – Customer identities

Page 361, paragraph 744 – Margin figures

Page 362, paragraph 745 – Margin figures

Page 402, paragraph 822 and n.1863 – Pricing figures

Page 403, paragraph 823 and n. 1865 – Pricing figures

Page 421, paragraph 863 – Customer identity

Page 422, paragraph 865 and n.1935 – Pricing figures and strategy

Page 423, paragraph 867 – Pricing figures

Page 424, paragraph 870 and n. 1958 – Pricing figures

Page 425, paragraph 870, 871, 872, and n. 1961, 1962 – Pricing figures

Page 426, paragraph 873 and n.1968 – Customer identities

Page 433, paragraph 883 – Pricing figures

Page 448, Table 20 – Pricing figures

Page 452, Table 22 – Pricing figures

Page 455, paragraph 915 and 916 – Pricing figures, Specific customer identities and pricing figures

Page 456, paragraph 916, 918, 2100, and n. 2102 – Pricing figures and specific customer identities and pricing

Page 457, Figure 18 – Pricing figures

Page 458, Table 23 – Pricing figures

1 2 3 4 5	Ex. 11 to the Declaration of Manuel J. Dominguez (Intuitive-00067540)  Dkt. No. 267.12	Sealing previously granted in Dkt. No. 246 (Daubert and Summary Judgement Omnibus Sealing Order).  Filed under seal in Dkt. No. 143.3 and 143.17. Corrected, sealed exhibit already re-filed as Dkt. No. 270.
6 7 8 9 10	Ex. 23 to the Declaration of Manuel J. Dominguez (Intuitive-00203904)  Dkt. Nos. 267.24 & 268.8	Page 2 – Specific discount and pricing figures  Page 3 – Pricing strategy, specific discount and pricing figures
11 12 13 14	Intuitive's Opposition to Class Certification  Dkt. Nos. 288 & 289.1	Page 4, Line 21 – Pricing figures  Page 14, Lines 11-13 – Pricing figures  Page 21, Line 22 – Settlement amount
15 16 17 18 19	Widman Declaration in Support of Intuitive's Opposition to Class Certification  Dkt. Nos. 288.2 & 289.2	Page 3, paragraphs 2 and 3 – Specific settlement amounts
20 21 22	Widman Declaration, Ex. 1  Dkt. Nos. 288.3 & 289.3	Pages 1-13, Full exhibit – Settlement negotiations and pricing figures
23 24 25 26 27 28	Bass Dec. Ex. 1 - Expert Rebuttal Report of James W. Hughes  Dkt. Nos. 288.5 & 289.4	Table of Contents, PDF Page 5 – Customer identities  Page 5, paragraph 16 – Pricing figures  Page 15, n.28 – Customer identities  Page 16, Figure 5 – Pricing figures  Page 22, Figure 10 and n.37 – Pricing figures, customer identities and specific customer prices

Page 24, n.42 – Customer identities

Page 25, ns.43, 44 – Pricing strategy, customer identities

Page 29, paragraphs 38 and 40 – Pricing figures, customer pricing agreements

Page 31, n.62 – Customer identities

Page 33, paragraph 48 – Pricing strategy

Page 34, paragraph 51, 52 and n. 74, 75, 76, 77 – Customer identities and customer pricing agreements

Page 53, n. 128 – Customer pricing agreement

Page 54, paragraph 88 – Pricing figures

Page 55, paragraph 88 and n. 136 – Pricing figures

Page 59, paragraph 95 – Pricing figures and customer identity

Page 60, paragraph 95 and notes 146, 147, 148 – Pricing figures and customer identities

Page 63, Table 1 – Pricing figures and customer identities

Page 65, paragraph 97 and n. 153, 154, 155 – Pricing figures

Page 76, Figure 20 – Pricing figures

Page 88, n.211 – Customer identities

Page 89, paragraph 132 and n. 212, 213, 214 – Customer identities

Page 90, paragraph 133, and n. 216 – Customer identities and pricing figures

Page 91, paragraph 13 – Customer identities and pricing figures

Page 92, Table 2 – Customer identities and pricing figures

Page 93, n. 218 and 219 – Customer identities and pricing figures

Page 95, paragraph 138, n. 223, 224, 225, and 226 – Customer identities and pricing figures

Page 96, n.229 – Customer identity

Page 102, paragraph 146 and n.256 – Customer identities

	<p>Page 125, list nos. 297, 300 – Customer identities</p> <p>Page 126, Table 3 – Pricing figures</p> <p>Page 129, n.259 – Customer identities</p> <p>Page 130, Figure 21 – Pricing figures</p> <p>Page 131, Figure 22 – Pricing figures</p> <p>Page 132, Figure 23 – Pricing figures</p> <p>Page 133, Figure 24 – Pricing figures</p> <p>Page 134, Figure 25 – Pricing figures</p> <p>Page 135, Figure 26 – Pricing figures</p>
<p>Bass Dec. Ex. 4 - Intuitive-00372053 – Intuitive- 00372055</p> <p>Dkt. Nos. 288.8 &amp; 289.5</p>	<p>Pages 1-4, Full Exhibit – Intuitive pricing strategy</p>
<p>Bass Dec. Ex. 7 - Intuitive-00091682 – Intuitive- 00091687</p> <p>Dkt. Nos. 288.11 &amp; 289.8</p>	<p>Page 2 – Customer identity and pricing figures</p>
<p>Bass Dec. Ex. 15 - Intuitive-00107443 – Intuitive- 00107451</p> <p>Dkt. Nos. 288.19 &amp; 289.13</p>	<p>Intuitive-0010747 – Business goals</p> <p>Intuitive-00107448 – Customer identity</p> <p>Intuitive-00107449 – Customer identity, Pricing figure</p> <p>Intuitive -00107450 – Customer identity, Pricing figure</p> <p>Intuitive -00107451 – Customer identity, Pricing figures</p>



1 2 3 4 5	Glubiak Dec. Ex. 1 - Corrected Class Certification Expert Report of Elhauge  Dkt. Nos. 296.2 & 297.2	Filed previously in Class Certification briefing as Ex. 1 to the Declaration of Manuel J. Dominguez.  <i>See entry above for Elhauge Expert Report</i>
6 7 8 9	Glubiak Dec. Ex. 2 - James Hughes Amended Expert Report  Dkt. Nos. 296.3 & 297.3	Filed previously in Class Certification briefing as Ex. 1 to the Declaration of Ashley Bass.  <i>See entry above for Hughes Expert Report.</i>
10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27	Glubiak Dec. Ex 3 – Elhauge Reply Report  Dkt. No. 296.4 & 297.4	Page 12, paragraph 29 – Pricing figures  Page 15, paragraph 36 and n. 44 – Pricing figures  Page 16, Table 29, paragraph 37 – Pricing figures  Page 17, Table 30 – Pricing figures  Page 18, Table 32 – Pricing figures  Page 19, Table 33 – Pricing figures  Page 20, Table 34 – Pricing figures  Page 21, Table 35, Table 36 – Pricing figures  Page 22, Table 37 – Pricing figures  Page 23, Table 38, 39, paragraph 46, and n. 63 – Pricing figures  Page 24, paragraph 48 – Pricing figures  Page 25, Table 40 – Pricing figures  Page 26, Table 41 – Pricing figures  Page 27, Table 42 – Pricing figures  Page 29, Table 43 – Pricing figures  Page 43, paragraph 77 – Pricing figures

1	Page 51, n. 188 – Pricing figures
2	Pages 53–54, paragraph 97 and n. 199 – Pricing figures
3	Page 55 – Pricing figures
4	Page 59 – Pricing figures
5	Page 61 – Pricing figures
6	Page 63 – Pricing figures
7	Page 64 – Pricing figures, customer identity
8	Page 65, paragraph 105 and n. 214 – Pricing figures, customer identity
9	Page 69, paragraph 113, 114, and n. 232 – Pricing and margin figures
10	Page 70, paragraph 116 – Pricing figures
11	Page 76, paragraph 127 and n. 275 – Pricing figures
12	Page 84, paragraph 142 – Customer identities, Pricing figures
13	Page 87, paragraph 148, 149, and n. 345 – Pricing figures, customer identities
14	Page 90, paragraph 154, and n. 361 – Customer identities, Pricing figures
15	Page 94, paragraph 161 – Pricing figures
16	Page 95, paragraphs 162, 163 and n.389 – Pricing figures
17	Page 97, paragraph 166, and 167 – Pricing figures
18	Page 98, paragraph 167, 168, and n. 412 – Pricing figures
19	Glubiak Dec. Ex. 6 – Mark Early Declaration
20	Pages 1-7, Full exhibit – Settlement negotiations and amounts
21	Dkt. No. 296.7 & 297.6

5. The materials I have reviewed also contain sensitive and non-public information regarding Intuitive’s settlement negotiations with one of its customers, including specific settlement

terms and the final settlement payment. The public release of this information would reveal Intuitive's business and pricing strategies and harm Intuitive's competitive strategy by giving competitors insight into Intuitive's pricing and negotiating practices. Furthermore, disclosure of these settlement terms and prices may discourage parties' open and full disclosure in future settlement negotiations.

Document	Excerpt
Intuitive's Opposition to Class Certification  Dkt. Nos. 288 & 289.1	Page 21, Line 22 – Settlement amount
Widman Declaration in Support of Intuitive's Opposition to Class Certification  Dkt. Nos. 288.2 & 289.2	Page 3, paragraphs 2 and 3 – Settlement negotiations
Widman Declaration, Ex. 1  Dkt. Nos. 288.3 & 289.3	Pages 1-13, Full exhibit – Settlement negotiations and pricing figures
Glubiak Dec. Ex. 6 – Mark Early Declaration  Dkt. Nos. 296.7 & 297.6	Pages 1-7, Full exhibit – Settlement negotiations and amounts

I declare under the laws of the United States that the foregoing is true and correct. Executed on this November 8, 2024.

  
Jaime Wong, M.D.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28